



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 15 2014

US EPA RECORDS CENTER REGION 5



468196

REPLY TO THE ATTENTION OF:

SE-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dava Kaitala
Senior General Attorney
BNSF Railway Company
2500 Lou Menk Drive, P.O. Box 961039
Fort Worth, Texas 76131

Re: Pilsen Soils Site
Chicago, Cook County, Illinois
Site Spill Identification Number: B5N8
General Notice of Potential Liability

Dear Mr. Kaitala:

The U.S. Environmental Protection Agency has documented the release or threat of release of hazardous substances, pollutants and contaminants into the environment from the Pilsen Soils Site (PSS), and is planning to spend public funds to control and investigate these releases. BNSF's portion of the PSS is described as: BNSF right-of-way adjacent to 1345 West 21st Street, Chicago, Illinois 60608; Along Loomis and adjacent to 947 West Cullerton Avenue, Chicago, Illinois, 60608 at intersection with Sangamon. A map of the area is attached. This action will be taken by EPA pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §§ 9601-9675 unless EPA determines that such action will be done properly by a responsible party or parties. Responsible parties under CERCLA include the current and former owners and operators of the PSS, and persons who generated the hazardous substances or were involved in the transport, treatment or disposal of the hazardous substances at the PSS. Under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), where EPA uses public funds towards the cleanup of the hazardous substances, responsible parties are liable for all costs associated with the removal or remedial action and all other necessary costs incurred in cleaning up the PSS, including investigation, planning and enforcement costs.

EPA is currently planning to conduct the following actions at the PSS:

1. Develop and implement Site plans including a Site specific health and safety plan, sampling plan, site security plan and work plan;



2. Consolidate and remove non-hazardous site debris and vegetation;
3. Based upon a Site Specific Sampling Plan, conduct extent of contamination sampling on-site to further delineate the extent of contaminated surface soil;
4. Excavate contaminated soil with concentrations above the industrial RML of 800 mg/kg for lead. Soils with lead above the industrial RML will be removed down to a depth, anticipated to be approximately 24 inches, necessary to eliminate any direct contact threat and to ensure unrestricted exposure by industrial and construction workers to site soils. Excavated material that fails TCLP will be treated with a fixation agent prior to disposal;
5. Remove, transport and dispose of all characterized or identified hazardous substances, pollutants, wastes or contaminants at a RCRA/CERCLA approved disposal facility in accordance with the U.S. EPA off-site rule;
6. Backfill excavated areas with clean materials and grade as appropriate. Excavated areas where soil concentrations remain above the RML will be lined with a demarcation barrier (e.g. orange snow fence) prior to backfilling with clean fill;
7. Restore excavated/disturbed areas and vegetate or use other controls to prevent soil erosion;
8. Secure site through repair and/or replacement of existing fencing, asphalt, sidewalk, etc; and
9. Take any necessary response actions to address any Site related release or threatened release of a hazardous substance pollutant or contaminant that the EPA determines may pose an imminent and substantial endangerment to the public health or the environment.

EPA has received information that BNSF may have owned or operated the area of the PSS described above, or generated or transported hazardous substances that were disposed of at the specified PSS area. By this letter, EPA notifies you of your potential liability with regard to this matter and encourages you, as a potentially responsible party, to agree to reimburse EPA for costs incurred to date and to voluntarily perform or finance the response activities that EPA has determined or will determine are required at the PSS. EPA is willing to discuss with you the entry of an appropriate administrative consent order under which you would perform or finance response activities and reimburse EPA for its costs.

If a consent order cannot be promptly concluded, EPA may issue a unilateral order under Section 106 of CERCLA, requiring you to perform specified work. Under Sections 106 and 107 of CERCLA, you may be liable for reimbursement of EPA's costs, for statutory penalties and for treble damages for noncompliance with such an order.

Because of the conditions described above, EPA believes that response activities at the PSS must be initiated as quickly as possible. Therefore, EPA does not intend to utilize the special notice procedures available under Section 122(e) of CERCLA.

As a potentially responsible party, you should notify EPA in writing within fourteen (14) calendar days of receipt of this letter of your willingness to perform or finance the activities described above and to reimburse EPA for its costs. Your response should be sent to:

Attn.: Thomas Marks, Enforcement Section Chief
U.S. Environmental Protection Agency, Region 5
Superfund Division - Enforcement & Compliance Assurance Branch
Enforcement Services Section 1, SE-5J
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

If EPA does not receive a timely response, EPA will assume that the City of Chicago does not wish to negotiate a resolution of its potential responsibility in connection with the PSS and that the City of Chicago has declined any involvement in performing the response activities.

Your response should indicate the appropriate name, address and telephone number for further contact with you. If you are already involved in discussions with state or local authorities, engaged in a voluntary cleanup action or involved in a lawsuit regarding this site, you should continue such activities as you see fit. This letter is not intended to advise you or direct you to restrict or discontinue any such activities already underway; however, you are advised to report the status of those discussions or actions in your response to this letter and to provide a copy of your response to any other parties involved in those discussions or actions.

If you need further information regarding this letter, you may contact Robert Peachey of the EPA Office of Regional Counsel at 312-353-4510.

Due to the nature of the problem at this facility and the attendant legal ramifications, EPA strongly encourages you to submit a written response within the time frame specified herein. We hope you will give this matter your immediate attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel Borries". The signature is fluid and cursive, with the first name "Samuel" being more prominent than the last name "Borries".

Samuel Borries, Chief
Emergency Response Branch 2

cc: Heather Calhoun
Jones Lang LaSalle Brokerage, Inc.
4300 Amon Carter Boulevard
Suite 100
Forth Worth, Texas 76155

